

**ATTORNEY GENERAL[61]**

**Notice of Intended Action**

**Proposing rule making related to assurance of voluntary compliance and providing an opportunity for public comment**

The Attorney General hereby proposes to adopt new Chapter 38, “Assurance of Voluntary Compliance,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 714.16.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 714.16(7).

*Purpose and Summary*

The purpose of this proposed new rule is to facilitate the resolution of investigations of violations of the Iowa Consumer Fraud Act (the Act), Iowa Code section 714.16, without instituting a civil action or proceeding pursuant to Iowa Code section 714.16(7). The new rule formalizes the practice of accepting an Assurance of Voluntary Compliance from the target of an investigation in lieu of filing a civil action and consent judgment. The new rule further states that all remedies available under the Act may be agreed to as part of an assurance, that entering into an assurance shall not be considered an admission of a violation of the Act, and that violation of an assurance shall be treated as a violation of Iowa Code section 714.16.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Attorney General for a waiver of the discretionary provisions, if any.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Office of the Attorney General no later than 4:30 p.m. on February 1, 2022. Comments should be directed to:

William Pearson  
Office of the Attorney General of Iowa  
Hoover State Office Building  
1305 East Walnut Street  
Des Moines, Iowa 50319-0106  
Email: [william.pearson@ag.iowa.gov](mailto:william.pearson@ag.iowa.gov)

### *Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Adopt the following **new** 61—Chapter 38:

### CHAPTER 38 ASSURANCE OF VOLUNTARY COMPLIANCE

**61—38.1(714) Assurance of voluntary compliance.** In any case where the attorney general has authority to institute a civil action or proceeding pursuant to Iowa Code section 714.16(7), in lieu thereof, the attorney general may accept an assurance of voluntary compliance with respect to any method, act or practice deemed to be in violation of the Iowa consumer fraud Act from any person who has engaged in, is engaging in, or was about to engage in such method, act or practice. Such assurance may, among other terms, include a stipulation for the voluntary payment by such person of the costs of investigation, the voluntary payment of a civil penalty, or an amount to be held in escrow pending the outcome of an action or as restitution to aggrieved consumers, or both. Matters thus closed may at any time be reopened by the attorney general for further proceedings in the public interest.

An assurance entered into pursuant to this rule shall not be considered an admission of a violation, provided that violation of such an assurance shall be treated as a violation of Iowa Code section 714.16, and shall be subjected to all the penalties and remedies provided therefor. A finding by a court that a violation of such assurance of voluntary compliance has occurred shall establish a prima facie case that the person subject thereto knows, or in the exercise of due care should know, that the person has in the past violated or is intentionally violating the provisions of this chapter.

This rule is intended to implement Iowa Code section 714.16(7).